IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Crl.Misc.No.15133-M of 2007

DATE OF DECISION: MARCH 9, 2007

Baldev Singh

...PETITIONER

VERSUS

The State of Punjab

...RESPONDENT

CORAM: HON'BLE MR.JUSTICE SATISH KUMAR MITTAL

Present: Mr.Vipul Aggarwal, Advocate,
for the petitioner.

...

The petitioner, who is the complainant, has filed the instant petition under Section 482 Cr.P.C. for setting aside the order dated 9.2.2007 passed by the Sub Divisional Judicial Magistrate, Baba Bakala, whereby the evidence of the prosecution in case FIR No. 206 dated 16.10.2001 registered under Sections 427/506/379/148/149/452 IPC at Police Station Mehta, Police District Majitha, has been closed by order of the court. While closing the evidence, the trial court has observed as under:-

> "Summons again received back unexecuted. Perusal of the file reveals that the accused were charge-sheeted on 19.4.2002. The case had been adjourned for the evidence of the prosecution. The perusal of the file reveals that so far only one PW Prem Singh has been examined. I have perused the file and observed that the summons had been issued to the complainant Baldev Singh various times which were received back with report that he could not meet despite the repeated visits by the Tamili

twice or thrice the service was also effected upon the complainant. The summons remained issued to PW Sudhir Kumar also received back unexecuted or with report that he had gone to U.P. or Himachal Pradesh. I observed that the complainant is intentionally not appearing in the court to depose. The prosecution has otherwise availed ample opportunities to conclude their entire evidence in the span of approximately five years. The prosecution was given last opportunity to conclude the prosecution evidence. However, of no avail. Finding no bona fide reason to further adjourn the case for the evidence of the prosecution, the evidence of the prosecution is hereby closed by order."

Counsel for the petitioner could not explain why the petitioner, who was the complainant in the aforesaid case, could not appear before the trial court in spite of the service effected upon him. In view of this fact and the conclusion arrived at by the trial court that the complainant was deliberately not appearing in order to delay the proceedings, I do not find any ground to interfere in the impugned order.

Dismissed.

March 9, 2007 (SATISH KUMAR MITTAL)
vkg JUDGE